

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DU TOIT et al. Examiner: Unknown
Serial No.: 09/979,586 Group Art Unit: Unknown
Filed: November 20, 2001 Docket: 8436.88USWO
Confirmation No.: N/A Notice of Allow. Date: N/A
Due Date: December 8, 2002
Title: VARIABLE PHASE SHIFTER

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EL658822806US
Date of Deposit: November 12, 2002

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Box PCT, Commissioner for Patents and Trademarks, Washington, D.C. 20231.

By: [Signature]
Name: John Junkers

Box PCT
Attn: PCT Legal Office
Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Other: Request for Reconsideration of Decision Under 37 CFR 1.497(d) (3 pages); Exhibits A-D
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: [Signature]
Name: Brian H. Batzli
Reg. No.: 32,960
BBatzli:JLarson:dc



S/N 09/979,586

PATENT

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I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Assistant Commissioner for Patents, Box PCT, Attn: PCT Legal Office, Washington, D.C. 20231.

By: _____

Name: John Junkers

REQUEST FOR RECONSIDERATION OF**DECISION UNDER 37 CFR 1.497(d)**

BOX PCT

Attn: PCT Legal Office

Assistant Commissioner for Patents

Washington, D.C. 20231

Dear Sir:

This paper is in response to the decision mailed October 8, 2002 in which the above-referenced application (hereinafter "the application") is indicated as being abandoned.

Applicants respectfully submit that the application has been abandoned in error, and Applicants request that the application be reinstated to pending status and that the papers bearing a mailing date of May 8, 2002 be accepted.

Statement of Facts

The decision at issued alleges that on November 3, 2000, the PCT applicant filed a notice withdrawing the international application, and that on the same date, the International Bureau issued a Form PCT/IB/307 confirming receipt of the notice of withdrawal. However, Form PCT/IB/307 was erroneously issued with respect to PCT application PCT/IB00/00739.

In a letter to the International Bureau dated November 3, 2000, the representative of the PCT applicant requested withdrawal of PCT application PCT/NZ00/00078 (attached hereto as Exhibit A). As noted in the October 8, 2002 decision, a Form PCT/IB/307 identifying PCT/IB00/000739 was mailed to the PCT applicant on November 3, 2000 (attached hereto as Exhibit B). However, the Form identified the wrong case.

Subsequently, on November 27, 2000, a Form PCT/IB/345 was sent to the PCT applicant acknowledging that the Form PCT/IB/307 was sent in error and instructing the PCT applicant to disregard the notice (attached hereto as Exhibit C).

A corrected Form PCT/IB/307 was then issued which properly identified PCT/NZ00/00078 and provided notification of the withdrawal thereof. This corrected Form was mailed to the PCT applicant on November 10, 2000 (attached hereto as Exhibit D).

Discussion

In view of the above facts, it can be seen that at no time did the PCT applicant instruct the International Bureau to withdraw PCT/IB00/000739. Further, Form PCT/IB/307 pertaining to PCT application PCT/IB00/000739 was sent in error as evidenced by Exhibit C. As a result, 35 USC 366 does not apply, and the application should be considered properly filed, pending, and in good standing.

Action Requested

Applicants request that the application be immediately reinstated to pending status and that the papers filed under 37 CFR 1.497(d) bearing a mailing date of May 8, 2002 be accepted.

Because this application was abandoned in error, no fee is believed to be due. However, in the event that a fee is necessary for consideration of this paper, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 13-2725.

Any questions regarding the foregoing may be directed to Applicants' attorney below at 612/336-4755.

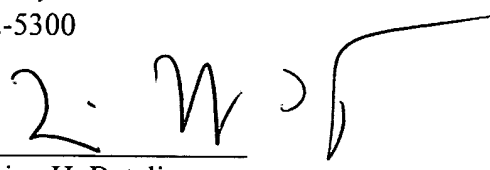


Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Dated: November 12, 2002

By



Brian H. Batzli
Reg. No. 32,960

BHB/JAL